

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
SCHEME LITIGATION

MASTER DOCKET

18-md-02865-LAK

This document relates to: All Cases.

DECLARATION OF SHARON L. MCCARTHY

I, Sharon L. McCarthy, an attorney duly admitted to practice law before the courts of the State of New York, hereby declare under penalty of perjury:

1. I am a partner at Kostelanetz & Fink, LLP, counsel for John and Elizabeth van Merkensteijn, Azalea Pension Plan, Basalt Ventures LLC Roth 401(K) Plan, Bernina Pension Plan, Bernina Pension Plan Trust, Michelle Investments Pension Plan, Starfish Capital Management LLC Roth 401(K) Plan, Omineca Pension Plan, Omineca Pension Plan Trust, Remece Investments LLC Pension Plan, Tarvos Pension Plan, Voojo Productions LLC Roth 401(K) Plan, and Xiphias LLC Pension Plan in these actions. Except as otherwise stated, I am fully familiar with the matters set forth in this declaration.

2. I submit this declaration in support of Defendants' Memorandum of Law in support of their Motion for Issuance of a Request for International Judicial Assistance to Obtain Evidence in Denmark.

3. Attached hereto as Exhibit 1 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

4. Attached hereto as Exhibit 2 is the Amended Complaint from *SKAT v. Bernina Pension Plan & John van Merkensteijn*, No. 19-cv-01865, Dkt. No. 53 (S.D.N.Y. Apr. 20, 2020).

5. Attached hereto as Exhibit 3 is the Answer to the Amended Complaint in *SKAT v. Bernina Pension Plan & John van Merkensteijn*, No. 19-cv-01865, Dkt. No. 63 (S.D.N.Y. June 29, 2020).

6. Attached hereto as Exhibit 4 is a translated transcript of Episode 1, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

7. Attached hereto as Exhibit 5 is a translated transcript of Episode 2, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

8. Attached hereto as Exhibit 6 is the 2010 Audit Report produced to defendants in this matter by plaintiff SKAT.

9. Attached hereto as Exhibit 7 is an English translation of the 2010 Audit Report, produced to defendants in this matter on January 15, 2021.

10. Attached hereto as Exhibit 8 is a translated transcript of Episode 4, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

11. Attached hereto as Exhibit 9 is a translated transcript of Episode 6, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionærer>.

12. Attached hereto as Exhibit 10 is a news article by Jakob Ussing, dated November 25, 2020, and titled *Tidligere skatteminister om udbytteskandalen: Embedsværket har svigtet* [*Former Minister of Taxation on the dividend scandal: The civil service has failed*]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-skatteminister-om-udbytteskandalen-embedsværket-har-svigtet>.

13. Attached hereto as Exhibit 11 is an English translation of Exhibit 10, which was generated using the “Google Translate” service, available at translate.google.com.

14. Attached hereto as Exhibit 12 is a news article by Emil Søndergård Ingvorsen, dated November 11, 2020, and titled *Tidligere skatteminister om udbyttesvindel: Man burde have prioriteret kontrol højere* [*Former Minister of Taxation on Dividend Fraud: Control should have been given higher priority*]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-skatteminister-om-udbyttesvindel-man-burde-have-prioriteret-kontrol-højere>.

15. Attached hereto as Exhibit 13 is an English translation of Exhibit 12, which was generated using the “Google Translate” service, available at translate.google.com.

16. Attached hereto as Exhibit 14 is another news article by Jakob Ussing, dated December 8, 2020, and titled *Tidligere skatteminister: I sidste ende er skandalerne politikernes ansvar* [*Former Minister of Taxation: Ultimately, scandals are the responsibility of politicians*]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-skatteminister-i-sidste-ende-er-skandalerne-politikernes-ansvar>.

17. Attached hereto as Exhibit 15 is an English translation of Exhibit 14, which was generated using the “Google Translate” service, available at translate.google.com.

I, Sharon L. McCarthy, declare under penalty of perjury that the foregoing is true and correct.

Dated: February 15, 2021
New York, NY

/s/ Sharon L. McCarthy
Sharon L. McCarthy